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HOUSE BILL 805

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Daniel P. Silva

AN ACT

RELATING TO LOCAL GOVERNMENTS; AMENDING CERTAIN SECTIONS OF THE  
DEVELOPMENT FEES ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 5-8-3 NMSA 1978 (being Laws 1993,  
Chapter 122, Section 3, as amended) is amended to read:

"5-8-3. AUTHORIZATION OF FEE.--

A. Unless otherwise specifically authorized by the  
Development Fees Act, no municipality or county may enact or  
impose an impact fee.

B. If it complies with the Development Fees Act, a  
municipality or county may enact or impose impact fees on land  
within its respective corporate boundaries.

C. A municipality and county may enter into a joint  
powers agreement to provide capital improvements within an area

underscored material = new  
[bracketed material] = delete

1 subject to both county and municipal platting and subdivision  
2 jurisdiction or extraterritorial jurisdiction and may charge an  
3 impact fee under the agreement, but if an impact fee is charged  
4 in that area, the municipality and county shall comply with the  
5 Development Fees Act.

6 D. A municipality or county may waive impact fee  
7 requirements for affordable housing projects.

8 E. A municipality or county may not use impact fees  
9 or the authority of the Development Fees Act as a growth  
10 management tool or as a penalty or incentive for development in  
11 any particular area within its jurisdiction."

12 Section 2. Section 5-8-7 NMSA 1978 (being Laws 1993,  
13 Chapter 122, Section 7) is amended to read:

14 "5-8-7. MAXIMUM FEE PER SERVICE UNIT.--The impact fee  
15 shall not exceed the average cost to pay for a proportionate  
16 share of the cost of system improvements, based upon service  
17 units, needed to serve new development. The use of marginal or  
18 incremental cost calculations for impact fees is not  
19 permitted."

20 Section 3. Section 5-8-15 NMSA 1978 (being Laws 1993,  
21 Chapter 122, Section 15) is amended to read:

22 "5-8-15. CREDITS AGAINST FACILITIES FEES.--Any  
23 construction of, contributions to or dedications of on-site or  
24 off-site facilities, improvements or real or personal property  
25 with off-site benefits not required to serve the new

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1 development, in excess of minimum municipal and county  
2 standards established by a previously adopted and valid  
3 ordinance or regulation and required by a municipality or  
4 county as a condition of development approval, whether or not  
5 it is listed on the municipality's or county's capital  
6 improvement plan, shall be credited against impact fees  
7 otherwise due from the development. The credit shall include  
8 the value of:

9 A. dedication of land for parks, recreational  
10 areas, open space trails and related areas and facilities or  
11 payments in lieu of that dedication; and

12 B. dedication of rights of way or easements or  
13 construction or dedication of on-site water distribution,  
14 wastewater collection or drainage facilities or streets,  
15 sidewalks or curbs."